IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL NO. 676 OF 1995

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT STATE ROAD TRANSPORT CORPORATION - Appellant(s)
Versus
HASMUKH J. PARMAR - Respondent(s)

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Appearance :
MR. DIPEN A. DESAI for Appellant.
MR. MUKESH H. RATHOD for Respondent.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG
and
HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 03/08/2005

ORAL JUDGMENT
(Per : HONOURABLE MR.JUSTICE R.S.GARG)

1. Being aggrieved by the Order dated 26th June, 1995 passed by the learned single Judge in Special Civil Application No.4562

of 1995 whereunder the award made by the Labour Court, Bhavnagar on 4th April, 1995 has been confirmed by the learned single Judge, the Gujarat State Road Transport Corporation is before us under Clause-15 of the Letters Patent.

2. Learned Counsel for the appellant submitted that it is true that the Approval Application against the proposed termination was rejected, but, it is incorrect to say that the said rejection was not challenged by the appellant before the Competent Authority. After going through the records, we are unable to conceive to the argument because but for the oral submission, no other document has been produced before the Court to satisfy the Court's judicial conscience that the rejection was ever challenged by the appellant before any competent forum.

3. Once the Approval Application was rejected by the Conciliation Officer, the order of dismissal would become ineffective and such an ineffective order could not be executed.

4. Taking into consideration the totality of the circumstances, we must agree with the findings recorded by the learned single Judge, which are also supported by the observations made by a Division Bench of this Court in Special Civil Application No.3830 of 1986, decided on 31st July, 1996.

5. As the order of termination is bad in law, the Court below was absolutely justified in awarding the back-wages to the extent of 60%. We find no reason to interfere. The appeal is dismissed.

[***R.S.Garg, J.***]

[***Ravi R.Tripathi, J.]***

*kamlesh**